



Wisconsin Elections Commission

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September 30, 2022

Sandy Weidner
2310 Thor Avenue
Racine, WI 53405

Sandra Morris
908 Belmont Avenue
Racine, WI 53405

Tara McMenemy (formerly Coolidge)
City Clerk
730 Washington Avenue
Racine, WI 53403

Sent via email to: sandy.weidner29@yahoo.com; sandra.kay.888@gmail.com;
jayjoelstone@gmail.com; clerks@cityofracine.org; scott.letteney@cityofracine.org;

Re: In the Matter of: Sandy Weidner et al. v. Tara Coolidge (Case No.: EL 22-25)

Dear Ms. Weidner, Ms. Morris, and Ms. McMenemy:

This letter is in response to the verified complaint submitted by Sandy Weidner and Sandra Morris (“Complainants”) to the Wisconsin Elections Commission (“Commission”), which was filed in reply to actions taken by Clerk McMenemy of the City of Racine (“Respondent”) concerning an alleged violation of HAVA and the U.S. Constitution, relating to the city’s website usage, get out the vote campaigns, voter outreach efforts, and hiring practices for poll workers.

Complaints “...shall set forth such facts as are within the knowledge of the Complainants to show probable cause to believe that a violation of law or abuse of discretion has occurred or will occur.” Wis. Stat. § 5.06(1). Probable cause is defined in Wis. Admin. Code § EL 20.02(4) to mean “the facts and reasonable inferences that together are sufficient to justify a reasonable, prudent person, acting with caution, to believe that the matter asserted is probably true.”

The Commission has reviewed the complaint and the City of Racine Clerk’s response. The Commission provides the following analysis and decision. In short, the Commission finds that the Complainants did not show probable cause to believe that a violation of law or abuse of discretion occurred.

Complaint Allegations and Response

On March 9, 2022, Ms. Weidner and Ms. Morris filed a sworn complaint with the Commission pursuant to Wis. Stat. § 5.06 alleging that Clerk McMenemy violated HAVA and the U.S. Constitution, relating to the city’s website usage, get out the vote campaigns, voter outreach efforts, and hiring practices for poll workers.

Specifically, the following allegations were made:

Commissioners

Don Millis, chair | Marge Bostelmann | Julie M. Glancey | Ann S. Jacobs | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

- Racine used a portion of its \$1.7 million in CTCL grants to create the Racine City Clerk's voteracine.org website. The city's advocacy for, and encouragement of, an increase in absentee voting by mail is a get out the vote effort which is impermissible under the Help America Vote Act ("HAVA").
- Racine's stated goal to "Expand Voter Education and Outreach to Disenfranchised Populations" is unconstitutional. More explicitly, the focus on race and historical disenfranchisement as a determination of voter education and outreach violates equal protection rights guaranteed by the 14th Amendment to the United States Constitution.
- Racine's stated goal to "Hire and train poll workers, particularly high school, college and technical school students" represents age discrimination and violates the city's own hiring and employment policy.
- Complainants requested relief, including removal of website postings focused on encouraging and increasing absentee voting, expanding outreach to disenfranchised populations, and targeting hiring/training of poll workers.

The Respondents countered with the following:

- Racine's website and elections guidance is available to any person without distinction as to any personal characteristic.
- The complaint makes conclusory statements without any evidence or support in the law.
- The complaint does not demonstrate that anything about voteracine.org prevents or restrains, or presents any obstacle to, any person-including Complainants-who is lawfully eligible to vote from exercising that right to vote.
- The Complainants' reference to a newspaper article on a Florida case, and the "twisted logic" that the minority exercise of the right to vote somehow diminishes the vote of white people, has no relationship to the instant matter.
- No law is cited to support the allegation that outreach to high school, technical school, and college students to serve as election workers somehow discriminates on the basis of age. The Commission and Respondent are not obligated to guess as to the Complainants' meaning or argument.

The Complainants submitted a final reply alleging the following:

- Since Wis. Stat. § 7.15(2)(a) requires municipal clerks to perform the duties of county clerks during municipal elections, when Respondent conducts municipal elections, she is beholden to perform both the duties stated in Wis. Stat. § 7.15 for municipal clerks and the duties for the county clerk stated in Wis. Stat. § 7.10.
- Wisconsin Statute § 7.10(7) is about "voter education" and states, "Each county clerk shall assist the commission in conducting educational programs under s. 5.05 (12) to inform electors about the voting process." Because of Wis. Stat. 7.15(2)(a), Respondent must adhere to Wis. Stat. § 7.10(7) on voter education. According to this statute, Respondent should conduct educational programs to inform electors about the voting process.
- Respondent's use of the city's website is not strictly educational and informative, but rather, it is a violation of Wis. Stat. § 7.10(7) that unlawfully advocates for disenfranchised voters. Respondents further argue that disenfranchisement is a denial of lawful voting rights, and such action would need to be reported to the Racine County District Attorney.

- The Respondent's poll worker hiring practices promote exclusivity rather than inclusivity.

Commission Authority and Role in Resolving Complaints Filed Under Wis. Stat. § 5.06

Under Wis. Stat. §§ 5.05(1)(e) and 5.06(6), the Commission is provided with the inherent, general, and specific authority to consider the submissions of the parties to a complaint and to issue findings. In instances where no material facts appear to be in dispute, the Commission may summarily issue a decision and provide that decision to the affected parties. This letter serves as the Commission's final decision regarding the issues raised in the complaint Ms. Weidner and Ms. Morris.

The Commission's role in resolving verified complaints filed under Wis. Stat. § 5.06, which challenge the decisions or actions of local election officials, is to determine whether a local official acted contrary to applicable election laws or abused their discretion in administering applicable election laws.

Commission Findings

The Respondent correctly notes that the Complainants make a series of "conclusory statements without any evidence or support in the law." Indeed, the Complainants do not even cite a provision of Wisconsin Statutes Chapters 5-10 and 12 in the initial complaint's allegations. The Complainants later improperly introduce new legal arguments under Wisconsin Statutes Chapter 7 in their final reply. Typically, this would prompt the Commission to consider whether the Respondent should be given an additional response opportunity, but regardless of these new claims, the Complainants fail to raise probable cause to believe that a violation of law or abuse of discretion occurred.

Wisconsin Statute § 7.15(2)(a) provides:

In municipal elections, the municipal clerks shall perform the duties prescribed for county clerks by s. 7.10.

Wisconsin Statute § 7.10(7) also provides:

Voter education. Each county clerk shall assist the commission in conducting educational programs under s. 5.05 (12) to inform electors about the voting process.

Finally, Wis. Stat. § 5.05(12) states:

Voter education. The commission may conduct or prescribe requirements for educational programs to inform electors about voting procedures, voting rights, and voting technology. The commission shall conduct an educational program for the purpose of educating electors who cast paper ballots, ballots that are counted at a central counting location, and absentee ballots of the effect of casting excess votes for a single office.

Complainants, in the final reply, attempt to use Chapter 7 (and the cross-referenced provision of Chapter 5) to tie its previous arguments to statutory citations. These allegations are tenuous at best. Yes, the above-referenced provisions of statute do broadly empower clerks to perform voter

education, specifically that prescribed by the Commission. However, the citations are not sufficient by themselves to overcome the Complainants' burden of raising probable cause to believe that a violation of law or abuse of discretion occurred.

The Complainants raise no sufficiently specific allegations of legal violations, and stemming from that, no supportive evidence was submitted under which the Commission can even begin to infer whether the allegations are true, correct, and under the purview of the Commission. Without such allegations and evidence, the Commission has no obligation to address legal allegations outside of its purview or unsupported by the sworn complaint materials. That said, the following summation is provided for the official complaint record:

- Complainants allege that the Respondent's get out the vote efforts and advocacy for increasing absentee voting are impermissible under HAVA. However, the Complainants fail to realize that HAVA only restricts the use of HAVA funds for certain impermissible uses. Complainants provided no evidence that HAVA funds were used for such activities in Racine. The only reference to funding in the complaint was an implication that CTCL grant funds were partially used to create the voteracine.org website.
- The Commission is not an arbiter of constitutional claims of equal protection and employment discrimination, at least to the extent that such claims are not tethered to an argument under Wisconsin Statutes Chapters 5-10 and 12. Complainants' allegations fail to raise a claim under the Commission's statutory purview and jurisdiction.

Therefore, the Commission finds no probable cause to believe a violation of law or abuse of discretion has occurred with regard to the alleged violation of HAVA and the U.S. Constitution, relating to the Respondent's website usage, get out the vote campaigns, voter outreach efforts, and hiring practices for poll workers.

Commission Decision

Based upon the above review and analysis, the Commission finds no probable cause to believe that a violation of law or abuse of discretion occurred.

Right to Appeal – Circuit Court

This letter constitutes the Commission's resolution of this complaint. Wis. Stat. § 5.06(2). Pursuant to Wis. Stat. § 5.06(8), any aggrieved party may appeal this decision to circuit court no later than 30 days after the issuance of this decision.

If any of the parties should have questions about this letter or the Commission's decision, please feel free to contact me.

Sincerely,

COMMISSION



Meagan Wolfe

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Administrator

cc: Commission Members